

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

David Perez Garcia

Date of Original Judgment: 01/13/2003

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Case No: 0419 3:01CR00036-001USM No: 35933-048

Pro Se

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment dated 01/15/2003, shall remain in effect.

IT IS SO ORDERED.

Signed: December 15, 2023

Effective Date: _____

(if different from order date)



Frank D. Whitney
United States District Judge

This page contains information that should not be filed in court unless under seal.
(Not for Public Disclosure)

DEFENDANT: David Perez Garcia
CASE NUMBER: 0419 3:01CR00036
DISTRICT: Western District of North Carolina

I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)

Previous Total Offense Level: <u>42</u>	Amended Total Offense Level: <u>42</u>
Criminal History Category: <u>III</u>	Criminal History Category: <u>II</u>
Previous Guideline Range: <u>360</u> to <u>Life</u> months	Amended Guideline Range: <u>360</u> to <u>Life</u> months

II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.

III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (*See Chavez-Meza v. United States, 138 S.Ct. 1959 (2018)*)

In this case, the application of Amendment 821 reduces the defendant's status points to zero resulting in a total of 2 criminal history points, criminal history category II. While this amends the criminal history category, the guideline range does not change; therefore, the application of Amendment 821 provides no change in this case.